IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 2ND FEBRUARY 2007 / 13TH MAGHA 1928

OP.No. 21921 of 2002(I)

PETITIONER:
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1. M.NASIR ALI, PERMODE HOUSE, P.O.PERMUDE
KUDALMERKALA VILLAGE, KASARAGOD TALUK.

2. ADANKUNHI, PERMUDE HOUSE, P.O.PERMUDE,
KUDALMERKALA VILLAGE, KASARAGOD TALUK.

3. KRISHNA PATALI, S/O. NARAYANA PATALI,
CHENNIKODI HOUSE, P.O.PERMUDE, BADOOR VILLAGE,
KASARAGOD TALUK.

BY ADV. SRI.K.V.SOHAN
SRI.B.PREMNATH (E)

RESPONDENTS:
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1. THE TAHSILDAR, REVENUE RECOVERY,
KASARAGOD.

2. NORTH MALABAR GRAMIN BANK, REPRESENTED
BY ITS MANAGER, PERMUDE, KASARAGOD.

R1 BY G.P. SMT. R. BINDU.
R2 BY ADV. SRI.M.K.SUMOD

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 02/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 37621 OF 2002 IN OP 21921 OF 2002

DISMISSED

2.2.2007 SD/-C.N.RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONERS' EXHIBITS:

EXT.P1 TRUE COPY OF THE REVENUE RECOVERY NOTICE ISSUED BY THE FIRST RESPONDENT TO THE PETITIONERS DATED 20.7.2002

SECOND RESPONDENT'S EXHIBITS:

EXT.R2(a) TRUE COPY OF THEAGREEMENT DATED 16.3.2001 EXECUTED BY THE FIRST PETITIONER WITH THE 2ND RESPONDENT.

EXT.R2(b) TRUE COPY OF THE EXTRACT OF THE LOAN ACCOUNT BY THE 2ND RESPONDENT.

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 21921 OF 2002

Dated this the 2nd day of February, 2007

JUDGMENT

Petitioner is challenging recovery proceedings on the ground that revenue recovery cannot be initiated for recovery of loan availed from the second respondent-Bank. Counsel for the second respondent contended that loan availed was a small business loan which is also priority loan covered by notification issued under Section 71 of the RR Act. Therefore the challenge against revenue recovery proceedings is not tenable. However, having regard to the payments made petitioner is granted waiver of penal interest provided petitioner clears entire balance arrears on or before 30.3.2007. O.P. is therefore disposed of directing the respondents to withhold recovery proceedings till 30.3.2007 and if full payment is made exclusive of penal interest voluntarily no collection charges will also be recovered from the petitioner. However, if default in payment as above is committed by the petitioner, waiver of penal interest granted above will stand

automatically cancelled and respondents will proceed for recovery by continuing recovery proceedings and in that event collection charges could also be recovered from the petitioner.

(C.N.RAMACHANDRAN NAIR)
Judge